

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 20 (ZONING), CHAPTER 20.22 (NONCONFORMING SITUATIONS), AMENDING SECTION 20.22.080 PROPERTY AFFECTED BY RIGHT-OF-WAY ACQUISITION TO ALLOW FOR PROPERTIES AFFECTED BY RIGHT-OF-WAY ACQUISITIONS TO BE EXEMPT FROM CERTAIN ZONING REGULATIONS AND TO REGISTER AS LEGAL NONCONFORMING. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.04 OF THE EL PASO CITY CODE.

WHEREAS, Title 20 (Zoning) of the El Paso City Code was adopted to promote the health, safety, morals and general welfare of the community; and

WHEREAS, Title 20 (Zoning) sets minimum density and dimensional standards with which all properties located within the City must comply; and

WHEREAS, in instances where properties are affected by right-of-way acquisition, said properties may not meet all density, dimensional, or on-premises sign standards after acquisition; and

WHEREAS, the City wishes to provide a relief mechanism for property owners from complying with all density, dimensional, and on-premises sign standards when their properties are affected by right-of-way acquisition; and

WHEREAS, a public hearing was held and recommended for approval by the City Plan Commission;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That Title 20 (Zoning), Chapter 20.22 (Nonconforming Situations), Section 20.22.080 (Property affected by right-of-way acquisition) be deleted and replaced in its entirety and amended as follows:

20.22.080 - Property affected by right-of-way acquisition.

A) Definitions.

(1) *Governmental agency.* United States of America, State of Texas, County of El Paso, City of El Paso, or any other agency having jurisdiction within the City of El Paso limits, with the ability to exercise eminent domain powers.

(2) *Right-of-way acquisition.* The securing of right-of-way through negotiation, purchase, bargain, trade, donation, condemnation or other means, but not including the dedication of right-of-way through the platting or zoning processes.

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(B) In the event that a right-of-way acquisition by a governmental agency causes a property or the improvements thereon to be in violation of Appendix B (Table of Density and Dimensional Standards) and Appendix C (Table of Parking Requirements and Standards) of Title 20 (Zoning) and/or Chapter 18.46 (Landscape), said property shall be exempt from said provisions to the extent said violation is caused by the right-of-way acquisition and shall be eligible for registration as a legal nonconformity, subject to the following:

(1) Property which undergoes a zoning change initiated by the property owner subsequent to right-of-way acquisition shall no longer be subject to this exemption and shall instead have a nonconforming status to the extent that any nonconformance with city ordinances resulted from a right-of-way acquisition by a governmental agency prior to the rezoning and shall therefore be treated as a nonconforming use pursuant to the provisions of this chapter rather than exempt as provided above. However, a city-initiated rezoning shall not cause a property to lose the exemption provided by this section for properties affected by right-of-way acquisitions.

(2) Nothing provided in this provision shall be construed to permit any obstruction which may create a traffic safety hazard or any other safety hazard.

(3) Improvements required by special permit or zoning condition and located in the area acquired for right-of-way shall no longer apply subsequent to the acquisition, except that required screening per Section 20.16 (Screening and Fencing) originally located within the area of the acquired property shall be relocated to the remainder of the tract as close as practicable inside the new property line.

(4) Any alteration or increase in square footage to the registered legal nonconformity shall comply with all applicable provisions in Title 20 (Zoning) and Chapter 18.46 (Landscape).

(C) In the event that a right-of-way acquisition by a governmental agency causes an On-Premises Sign to be in violation of Chapter 20.18, Article IV (On-Premises Sign Regulations), said sign shall be exempt from said provisions to the extent said violation is caused by the right-of-way acquisition, subject to the following:

(1) The sign must have been legally permitted at the time of the initial placement; and

(2) Must be relocated to the remainder or remain in its existing location; and

(3) Cannot be altered or enlarged; and

(4) Must be registered as legal nonconforming and be subject to the provisions of Section 20.22.090 (Nonconforming Signs).

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SECTION 2. Except as herein amended, Title 20 (Zoning) of the El Paso City Code shall remain full force and effect.

ADOPTED this _____ day of _____, 2018.

THE CITY OF EL PASO

Dee Margo, Mayor

ATTEST:

Laura D. Prine, Interim City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Karla M. Nieman
Senior Assistant City Attorney

Victor Morrison-Vega, Interim Director
Planning & Inspections Department

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